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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522-0640-02]

RIN 0648-XA917

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2012

Gulf of Alaska Pollock and Pacific Cod Total Allowable Catch Amounts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2012 total allowable catch (TAC) amounts for the Gulf of Alaska (GOA) pollock and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the GOA pollock and Pacific cod TACs are the appropriate amounts based on the best available scientific information for pollock and Pacific cod in the GOA. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], until the effective date of the final 2012 and 2013 harvest specifications for GOA groundfish, unless otherwise modified or superseded through publication of a notification in the Federal Register. Comments must

be received at the following address no later than 4:30 p.m., A.l.t., [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2011-0307, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA-NMFS-2011-0307 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on that line.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.
- Hand delivery to the Federal Building: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the

comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2011 and 2012 harvest specifications for groundfish in the GOA (76 FR 11111, March 1, 2011) and Pacific cod revision (76 FR 81860, December 29, 2011) set the 2012 pollock TAC at 121,649 metric tons (mt) and the 2012 Pacific cod TAC at 58,650 mt in the GOA. In December 2011, the Council recommended a 2012 pollock TAC of 116,444 mt for the GOA, which is less than the 121,649 mt established by the final 2011 and 2012 GOA harvest specifications. The Council also recommended a 2012 Pacific cod TAC of 65,700 mt for the GOA, which is more than the 58,650 mt established by the final 2011 and 2012 harvest specifications for groundfish in the GOA.

The Council's recommended 2012 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2011, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock and Pacific cod are a principal prey species for Steller sea lions in the GOA. The seasonal apportionment of pollock and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. The regulations at § 679.20(a)(5)(iv) specify how the pollock TAC will be apportioned. The regulations at § 679.20(a)(6)(ii) and § 679.20(a)(12)(i) specify how the Pacific cod TAC shall be apportioned.

In accordance with § 679.25(a)(1)(iii) and (a)(2)(i)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2011 SAFE report for this fishery, the current GOA pollock and Pacific cod TACs are incorrectly specified. Consequently, pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2012 GOA pollock TAC to 116,444 mt and the 2012 GOA Pacific cod TAC to 65,700 mt.

Pursuant to § 679.20(a)(5)(iv), Table 6 of the final 2011 and 2012 harvest specifications for groundfish in the GOA (76 FR 11111, March 1, 2011) is revised for the 2012 pollock TACs in the Western, Central, and Eastern GOA consistent with this adjustment.

Table 6—Final 2012 Distribution of Pollock in the Central and Western Regulatory Areas of the GOA; Seasonal Biomass Distribution, Area Apportionments; and Seasonal Allowances of Annual TAC (Values are rounded to the nearest metric ton and percentages are rounded to the nearest 0.01)

Season ¹	Shumagin (Area 610)		Chirikof (Area 620)		Kodiak (Area 630)		Total ²
A (Jan 20-Mar 10)	5,797	(22.64%)	14,023	(54.76%)	5,787	(22.60%)	25,607
B (Mar 10-May 31)	5,797	(22.64%)	17,221	(67.25%)	2,589	(10.11%)	25,607
C (Aug 25-Oct 1)	9,338	(36.47%)	7,282	(28.44%)	8,986	(35.10%)	25,606
D (Oct 1-Nov 1)	9,338	(36.47%)	7,282	(28.44%)	8,986	(35.10%)	25,606
Annual Total	30,270		45,808		26,348		102,426

¹ As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

² The WYK and SEO District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

Note: Seasonal allowances may not total precisely to annual TAC total due to rounding down, rather than up).

Pursuant to § 679.20(a)(6)(ii and § 679.20(a)(12)(i), Table 8 of the final 2011 and 2012 harvest specifications for groundfish in the GOA (76 FR 11111, March 1, 2011) and Pacific cod revision (76 FR 81860, December 29, 2011) is revised for the 2012 Pacific cod TACs in the Western, Central, and Eastern GOA consistent with this adjustment.

Table 8—Final 2012 Seasonal Apportionments and Allocation of Pacific Cod Total Allowable Catch Amounts in the GOA; Allocations for the Western GOA and Central GOA Sectors and the Eastern GOA Inshore and Offshore Processing Components
(Values are rounded to the nearest metric ton and percentages to the nearest 0.01. Seasonal allowances may not total precisely to annual allocation amount)

Regulatory Area and Sector	Annual Allocation (mt)	A Season		B Season	
		Sector % of Annual Non-Jig TAC	Seasonal Allowances (mt)	Sector % of Annual Non-Jig TAC	Seasonal Allowances (mt)
Western GOA					
Jig (1.5 % of TAC)	315	N/A	189	N/A	126
Hook-and-line CV	290	0.70	145	0.70	145
Hook-and-line C/P	4,100	10.90	2,257	8.90	1,843
Trawl CV	7,952	27.70	5,736	10.70	2,216
Trawl C/P	497	0.90	186	1.50	311
All Pot CV and Pot C/P	7,869	19.80	4,100	18.20	3,769
Total	21,024	60.00	12,614	40.00	8,410
Central GOA					
Jig (1.0% of TAC)	427	N/A	256	N/A	171
Hook-and-line < 50 CV	6,174	9.32	3,938	5.29	2,235
Hook-and-line ≥ 50 CV	2,835	5.61	2,372	1.10	464
Hook-and-line C/P	2,158	4.11	1,736	1.00	422
Trawl CV	17,581	21.14	8,936	20.45	8,645
Trawl C/P	1,775	2.00	847	2.19	928
All Pot CV and Pot C/P	11,755	17.83	7,538	9.97	4,217
Total	42,705	60.00	25,623	40.00	17,082
Eastern GOA		Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
	1,971	1,774		197	

Note: Seasonal apportionments may not total precisely due to rounding.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for Pacific cod based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 29, 2011, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

This action is required by § 679.22 and § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: December 30, 2011.

Alan D. Risenhoover,
Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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